IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Narayan Singh Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.1052/2004

DATE OF ORDER :: August 02, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr. Sandeep Mehta, for the petitioner.
Mr. Ashok Upadhyaya, P.P.
Mr. B.S.Rathore, for non-petitioner No.2.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner seeks quashing of FIR No.80/2004, Police Station, Mahila Thana, Bhilwara for the offence under section 498-A I.PC.

I have heard learned counsel for the petitioner, Public Prosecutor for the State and the counsel appearing for the first informant. Carefully gone through the first information report in question.

It is contended by the learned counsel for the petitioner that prior to the FIR in question, non-petitioner No.2 lodged a first information report being FIR No.103/2002, wherein the police filed the negative final report, which was accepted by the court and, therefore, the FIR in question is a second FIR on same facts and, therefore, deserves to be quashed.

Learned Public Prosecutor and the counsel appearing for the complainant submit that FIR in question is not on the same facts but relates to the occurrence which took place after 5.3.2004 and, therefore, it cannot be said that the allegations made in the FIR have been investigated by the police in earlier FIR. It is further contended that the FIR discloses the cognizable offence and, therefore, needs thorough investigation by the police.

I have given my thoughtful consideration to the rival submissions made by the learned counsel for the parties.

It appears that the non-petitioner No.2 filed an FIR on 25.8.2005. During pendency of that FIR on intervention of the reputed persons of the society and repentance of the act shown by the petitioner and the complainant being his wife, keeping in view his marital status and also status of her minor child,

compromised the matter and stated before the trial court where the FR was filed that she does not wish to prosecute her husband and as such the trial court accepted the final report filed by the police. However, after getting the FR accepted by the trial court on misrepresentation made by the petitioner, he again started harassing the non-petitioner No.2 and has been raising the demand of dowry, she used to be threated and harassed on telephone requiring her to get a car in dowry as also a house at Jaipur, else he would not keep her and thereby subjected the non-petitioner No.2 to mental cruelty in connection with the demand of dowry to the extent that the non-petitioner No.2 lost her mental equilibriums causing her mental and physical harassment.

On careful perusal of the FIR, it appears that the act alleged to have been committed by the petitioner is distinct and different from that of in the earlier FIR. Even otherwise, in the earlier FIR, the police submitted the FR only on the ground that the complainant compromised the matter with her husband and therefore, it cannot be said that the FIR does not disclose the cognizable offence. From the instant FIR, it also appears that the petitioner being a police official and is an influential person and by his influence, he managed to get the FR filed, it was not prosecuted by the first informant non-petitioner No.2 because

the petitioner showing repentance of his previous act and assured the informant non-petitioner No.2 that the act would not be repeated and, therefore, the informant filed the compromise before the court on which the trial court accepted the FR. Thus, it cannot be said that the facts in issue in the instant first information report have already been adjudicated.

In Union of India & Ors. Vs. B.R.Bajaj & Ors., (1994) 2 SCC 277, the Hon'ble Supreme Court relying on a decision of the Apex Court in State of Haryana vs. Ch. Bhajan Lal, 1992 Supp. (1) SCC 335 held that the allegations in the FIR make out commission of cognizable offence at that stage and the registration of an FIR is only the beginning of the investigation. That being the case, the High Court has grossly erred in quashing the FIR itself when several aspects of the allegations in the FIR had still to be investigated by the police. At that stage, the High Court could not go into the question whether offences alleged in the FIR were made out or not. The statutory power of police to investigate cannot be interfered with in exercise of inherent power of High Court.

Keeping in view the decisions of Hon'ble Supreme Court in State of Haryana vs. Bhajan Lal (supra) and in Union of India & Ors. Vs. B.R.Bajaj & Ors. (supra), in my view no case for

quashing the FIR is made out.

The petition is, therefore, dismissed. Stay petition also stands dismissed.

[H.R.PANWAR],J.

m.asif/-